

An illustration of diverse South Asian people, including a man with a white beard and green turban, a woman with a yellow sari, and a woman with glasses and a green headscarf. The background is a patterned orange and yellow.

# THE TORT OF FAMILY VIOLENCE: A NEW LEGAL REMEDY FOR GENDER- BASED VIOLENCE

## RESOURCES

- **VictimLinkBC:** 1-800-563-0808 (toll-free, 24/7, multilingual service available)
- **Battered Women's Support Services Crisis Line:** 1-855-687-1868
- **BC 24/7 Community and Social Services Helpline:** 211
- **Helpline for Children in BC:** 604-310-1234
- **Kids Help Phone:** 1-800-668-6868
- **Reporting child abuse:** 1-800-663-9122
- **Seniors Abuse and Information Line:** 1-866-437-1940
- **Youth Against Violence Line:** 1-800-680-4264
- **WAVAW Rape Crisis Centre's Crisis and Information Line:** 1-877-392-7583



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Committed to improving access to  
justice for South Asians in British  
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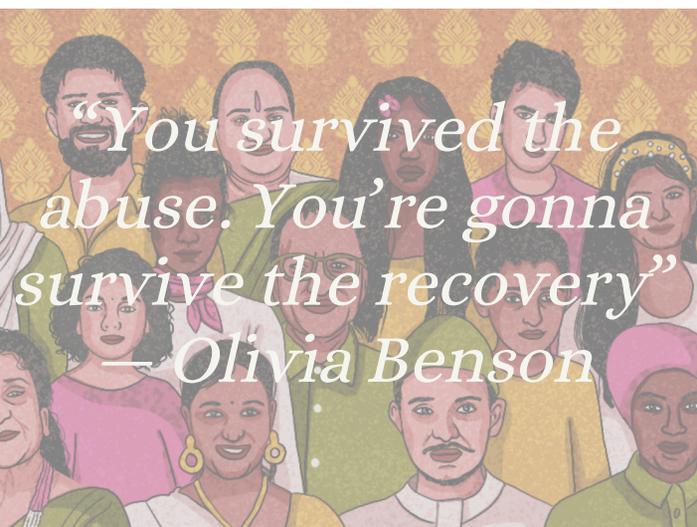
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# Gender-Based Violence in the South Asian Community

Intimate partner violence was the leading form of violence experienced by women in Canada. Leaving an abusive relationship may be more difficult for South Asian women since the culture places a strong emphasis on maintaining the honour and reputation of the family.

Additionally, South Asian women may face unique barriers to leaving abusive relationships due to the close-knit nature of many South Asian communities. It may be difficult for a woman to leave an abusive relationship without the support of her family and community and seeking help from outside sources may be seen as a betrayal.

Abuse is present in various forms such as physical, emotional, financial, sexual, etc.



## What is the Tort of Family Violence?

### CIVIL PROCEDURE

Civil claims can provide a more comprehensive remedy for victims, as they can seek damages for a wider range of harms (including emotional and financial harms) than may be available through criminal charges. Inherently a criminal case's focus is on the offender and the prosecution of the accused is done by the Crown. The Case is put forth by the Crown because the violence is seen as an offence against society as a whole.



### TORT LAW

The tort of family violence is based on the idea that an individual has a duty to refrain from causing harm to their family members, and that this duty is breached when domestic violence occurs. In order to succeed in a claim for family violence, the victim must prove the following:

- That there was a relationship of some permanence between the victim and the perpetrator (such as marriage, common-law partnership, or a relationship of dependency)
- The perpetrator engaged in a pattern of abusive or controlling behaviour towards the victim, and that the victim suffered harm as a result of the perpetrator's actions



### WHAT MUST BE PROVED

The plaintiff must prove on a balance of probabilities:

Conduct by a family member towards the plaintiff, within the context of a family relationship, that:

- 1. Is violent or threatening, or**  
-Must establish that the defendant had the intention to commit violent or threatening acts
- 2. Constitutes a pattern of coercive and controlling behaviour, or**  
-Must establish that the defendant engaged in behaviour that was calculated and coercive towards the plaintiff.
- 3. Causes the plaintiff to fear for their safety or that of another person**  
-Must establish that the defendant knowingly engaged in conduct that would instil fear in the plaintiff.